

ESTTA Tracking number: **ESTTA612650**Filing date: **06/27/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	BPP Wealth Solutions, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	36 W 44th Street, Suite 1416 New York, NY 10036 UNITED STATES		

Attorney information	Arnie Herz Arnie Herz Law Office 14 Vanderventer Ave. Ste. 255 Port Washington, NY 11050 UNITED STATES arnie@arnieherz.com Phone:5167670800
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Registration Subject to Cancellation

Registration No	3393981	Registration date	03/11/2008
Registrant	The Aspen Equity Group, Inc. P.O. BOX 2824 ASPEN, CO 81612 UNITED STATES		

Goods/Services Subject to Cancellation

Class 036. First Use: 1998/00/00 First Use In Commerce: 1998/00/00 All goods and services in the class are cancelled, namely: Financial analysis and consultation; Financial consultation; Financial information provided by electronic means; Financial management; Financial planning; Financial planning consultation; Financial planning, namely, the creation of personalized strategies to achieve financial independence; Financial portfolio management; Financial research
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Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14

Attachments	Cancellation Petition Building Wealth v2.pdf(1287947 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	//ArnieHerz//
Name	Arnie Herz
Date	06/27/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration No. 3,393,981
Registered: March 11, 2008

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BPP WEALTH SOLUTIONS, LLC,	:	Cancellation No.
	:	
Petitioner,	:	
	:	
v.	:	<u>PETITION FOR CANCELLATION</u>
	:	
THE ASPEN EQUITY GROUP, INC.,	:	
	:	
Registrant.	:	
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Petitioner, BPP Wealth Solutions, LLC, a Delaware limited liability company, located at 36 W 44th Street, Suite 1416, New York, NY 10036, believes that it has been damaged by Registration No. 3,393,981 (the “Registration”) for the mark BUILDING WEALTH FOR GENERATIONS (the “Aspen Mark”), and hereby petitions to cancel same.

As grounds for cancellation, it is alleged that:

1. For almost 20 years, Petitioner, through itself and its predecessor, BPP Wealth, Inc. (“Petitioner”), has been in the business of providing financial services and business consulting services utilizing the mark BUILDING, PROTECTING & PRESERVING WEALTH FOR GENERATIONS (the “BPP Mark”).

2. As a result of this substantial use and marketing efforts of services offered by Petitioner under its BPP Mark, such mark has achieved widespread recognition among the consuming public and has developed enormous goodwill of great value to Petitioner.

3. On July 11, 2006, the BPP mark registered under Registration No. 3,113,825 (the “BPP Registration”) in the United States Patent and Trademark Office (“USPTO”) for business

and financial services, in classes 35 and 36 with its first use in January 1, 1995. The BPP Registration inadvertently lapsed on February 15, 2013 despite Petitioner's continuous use of the mark since January 1, 1995.

4. Three and half months after the BPP Registration lapsed, the Petitioner filed a new application on May 31, 2013 (the "New BPP Application").

5. By Office Action dated January 13, 2014, the USPTO refused the Petitioner's New BPP Application, citing the Registration owned by Registrant The Aspen Equity Group, Inc. ("Registrant").

6. Upon information and belief, Registrant had abandoned the Aspen Mark by discontinuing use of such mark in commerce with an intention not to resume such use, and the Registration is therefore subject to cancellation.

7. Upon information and belief, Registrant has also committed fraud on the USPTO by falsely filing its Section 15 declaration in which Registrant made sworn statements that Registrant used the Aspen Mark in commerce for five consecutive years.

8. Upon information and belief, Registrant was not using the Aspen Mark in commerce for five consecutive years at the time it filed its Section 15 declaration.

9. Upon information and belief, Registrant knew or should have known that the statements made in connection with its Section 15 filings were false or misleading and the USPTO relied upon such statements in accepting Registrant's Section 15 declaration and maintaining the validity of the Registration. Accordingly, the Registration is also subject to cancellation on the ground of fraud.

10. Lastly, Petitioner was first to use its mark and indeed secured the BPP Registration, two years before the USPTO issued the Registration to Registrant. Accordingly, Petitioner has priority rights.

11. Petitioner will be injured if Registrant is permitted to maintain ownership of the Registration, and in fact Petitioner has already been so injured, because Petitioner's New BPP Application is being blocked in the USPTO by the Registration. If Petitioner is permitted to retain the Registration which Petitioner seeks to cancel herein, the Registration will interfere with and hamper Petitioner's ability to protect its mark.

WHEREFORE, Petitioner, by its attorneys, respectfully requests that its petition for cancellation be sustained and that the Registration be canceled on the basis of abandonment, fraud and prior use on the part of the Petitioner.

Dated: Port Washington, New York
June 27, 2014

Respectfully submitted,

ARNIE HERZ, ATTORNEY AT LAW
Attorneys for Petitioner



By: _____

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Petition for Cancellation was served upon Registrant by mailing a copy thereof by first class mail, postage prepaid, on June 27, 2014 addressed as follows:

The Aspen Equity Group, Inc.
Attn: Robert L. Cluck, President
P.O. Box 2824
Aspen, CO 81612



ARNIE HERZ